

REMARKS

Applicant has adopted the Examiner's claim suggestions and claim objections noted at page 2 of the Office Action. A Terminal Disclaimer is enclosed to overcome the provisional obviousness-type double patenting rejection, without the Applicant conceding that the claims are patentably indistinct.

The independent claim has been amended to make clear that the optical force is a non-trapping force. Both Fuhr and Tsai relate to the use of optical tweezers, and therefore employ optical trapping. In marked distinction, Applicant's claimed invention does not trap the particles subject to the optical force.

This application is believed to be in condition for allowance. If you have any questions, please call the undersigned at 949.737.2900.

Respectfully submitted,

O'MELVENY & MYERS LLP

Dated: 2/22/05

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IR1:1062686.1

shall be the same as the legal title to U.S. Patent Nos. 6,744,038 and 6,778,724, this agreement to run with any patent granted on the above-identified application and to be binding upon GENOPTIX, its successor, or assigns.

GENOPTIX does not disclaim any terminal part of any patent granted on the above-identified application prior to the expiration dates of the full statutory terms of U.S. Patent Nos. 6,744,038 and 6,778,724 in the event that they later expire for failure to pay a maintenance fee, are held unenforceable, are found invalid, are statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. §1.312(a), has all claims canceled by a reexamination certificate, or are otherwise terminated prior to expiration of their statutory terms as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

Enclosed herewith is a check for the amount of \$65.00 for the requisite fee. If any additional fees are necessitated by the filing of this document, please charge Deposit Account No. 50-2862

Respectfully submitted,

O'MELVENY & MYERS LLP

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